

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
MCALLEN DIVISION**

**ROGELIO RAMOS AND
SILVIA RAMOS**

VS.

**ALLSTATE VEHICLE AND
PROPERTY INSURANCE COMPANY
AND RICARDO NIEVES**

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CIVIL ACTION NO. _____

JURY DEMANDED

NOTICE OF REMOVAL

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW ALLSTATE VEHICLE AND PROPERTY INSURANCE COMPANY, and pursuant to Rule 15, Federal Rules of Civil Procedure, and 28 U.S.C. Sections 1441 and 1332, files this its Notice of Removal and in connection therewith would respectfully show the Court the following:

**I.
BACKGROUND**

Petitioner is a Defendant in a civil action now pending in the 93rd District Court of Hidalgo County, Texas, Cause Number C-4707-16-B, styled *Rogelio Ramos and Silvia Ramos v. Allstate Vehicle and Property Insurance Company and Ricardo Nieves*, wherein Plaintiffs seek monetary relief for property damage, and alleged violations of the Texas Insurance Code, including violations of the Prompt Payment of Claims Act and Unfair Settlement Practices, as well as claims for breach of the duty of good faith and fair dealing.

**II.
BASIS FOR REMOVAL**

The district courts of the United States have original jurisdiction over this action based on diversity of citizenship among the parties, in that the Defendants are diverse in citizenship from the

Plaintiffs.

III. DIVERSITY IN CITIZENSHIP

The Plaintiffs, Rogelio Ramos and Silvia Ramos, are domiciled in Hidalgo County, in the State of Texas, and were domiciled there at the time this action was commenced. Plaintiffs were at that time and are now citizens of the State of Texas.

Allstate Vehicle and Property Insurance Company is a corporation incorporated under the laws of the State of Illinois, having its principal place of business now and at the time this action was commenced at Northbrook, Cook County, in the State of Illinois. Defendant is now, and was at the time this action was commenced, a citizen of the State of Illinois and of no other state.

Defendant, Ricardo Nieves, is not a resident of Texas, but a citizen of the State of Florida and no other state. Accordingly, diversity of citizenship exists among the parties.

IV. AMOUNT IN CONTROVERSY

The amount in controversy in this action exceeds, exclusive of interests and costs, the sum of Seventy-Five Thousand Dollars (\$75,000.00). Plaintiffs' Original Petition seeks monetary damages between \$200,000.00 and \$1,000,000.00. See Plaintiffs' Original Petition Paragraph III. Should Plaintiffs prevail on the claims against Defendants stated in the Plaintiffs' Original Petition, attached to this Notice, Plaintiffs would be entitled to damages in excess of Seventy-Five Thousand Dollars (\$75,000.00). The applicable policy provides dwelling limits of \$180,592.00, other structure limits of \$9,030.00 and contents coverage of \$54,178.00. See declarations page attached as Exhibit A. Prior to filing this lawsuit, Plaintiffs submitted a demand for \$48,990.31. See demand letter attached as exhibit B. In the demand, Plaintiffs note the potential for seeking recovery of treble damages. In addition to policy benefits, Plaintiffs seek statutory damages, extra-contractual damages, exemplary

damages and attorney's fees. Accordingly, considering all damages Plaintiffs would be entitled to, should they prevail, the amount in controversy exceeds Seventy-Five Thousand Dollars (\$75,000.00).

V.

Removal of this action is proper under 28 U.S.C. §1441, since it is a civil action brought in a state court, and the federal district courts have original jurisdiction over the subject matter under 28 U.S.C. §1332 because the Plaintiffs and Defendants are diverse in citizenship and the amount in controversy exceeds \$75,000.00.

VI.

This notice of removal is being filed within thirty (30) days after receipt by Petitioner of Plaintiffs' Original Petition, which was the first notice to Defendant of this lawsuit. This removal is filed under 28 U.S.C. Section 1446(b).

VII.

Petitioner's time to answer or remove with respect to the Plaintiffs' Original Petition has not expired. Plaintiffs' Original Petition was served on the Defendant Allstate Vehicle and Property Insurance Company on October 18, 2016. All Defendants properly joined and served consent to the removal of this case to Federal Court.

VIII.

This action is one over which this Court has original jurisdiction under the provisions of 28 U.S.C. Section 1331 and this action may be removed to this Court by Petitioner, pursuant to the provisions of 28 U.S.C. Section 1441. Copies of all pleadings including the docket sheet on file with the State Court are attached hereto.

WHEREFORE, ALLSTATE VEHICLE AND PROPERTY INSURANCE COMPANY,

Defendant in this action, pursuant to these statutes and in conformance with the requirements set forth in 28 U.S.C. §1446, removes this action for trial from the 93rd District Court, Hidalgo County, Texas to this Court, on this 17th day of November, 2016.

Respectfully submitted,

BY: /s/ Rosemary Conrad-Sandoval

Rosemary Conrad-Sandoval

Attorney-in-charge

State Bar #04709300

Federal ID #13738

R. Jordan Riley

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Of Counsel

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ATTORNEYS FOR DEFENDANT

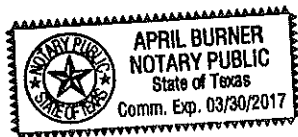
VERIFICATION

THE STATE OF TEXAS :
:
COUNTY OF HIDALGO :

I, ROSEMARY CONRAD-SANDOVAL, being first duly sworn, depose and say that: I am counsel for Petitioner, ALLSTATE VEHICLE AND PROPERTY INSURANCE COMPANY; I am familiar with the contents of the above; and to the best of my knowledge the contents thereof are true and correct.


ROSEMARY CONRAD-SANDOVAL

SUBSCRIBED AND SWORN TO BEFORE ME by the said ROSEMARY CONRAD-SANDOVAL, this 17th day of November, 2016 to certify which witness my hand and seal of office.




Notary Public, State of Texas

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a true and correct copy of the foregoing Notice of Removal has been mailed, Certified Mail, Return Receipt Requested, to the Attorney for Plaintiff, as follows:

Andres Arguello
Philip Broderick
Nishi Kothari
ARGEULLO, HOPE & ASSOCIATES
1110 Nasa Parkway, Suite 620
Houston, Texas 77058

on this 17th day of November, 2016.

/s/ Rosemary Conrad-Sandoval
ROSEMARY CONRAD-SANDOVAL